

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH

CIRCUIT COURT SITTING AT INDORE

Original Application No. 769 of 2003

Indore, this the 13<sup>th</sup> day of January, 2005

Hon'ble Shri M.P. Singh, Vice Chairman  
Hon'ble Shri Madan Mohan, Judicial Member

Anil Dubey, aged about 40 years,  
S/o. Shri G.S. Dubey, R/o. 173, F-H,  
Scheme No. 54, Vijay Nagar, Indore. ... Applicant

(By Advocate - Shri M.K. Verma)

V e r s u s

1. Union of India, through Secretary, Department of Urban Development and Employment, New Delhi.
2. Director General, Central Public Works Department, "A" Wing, Nirman Bhawan, New Delhi - 110001.
3. Superintending Engineer (Electrical), Bhopal Central Electrical Circle, Nirman Sadan, Bhopal (MP). ... Respondents

(By Advocate - Shri Om Namdeo)

O R D E R

By Madan Mohan, Judicial Member -

By filing this Original Application the applicant has claimed the following main reliefs :

"8.1 to direct the respondent Department to promote the applicant on the post of Assistant Engineer (Electrical) in the interest of justice,

8.2 to direct the respondent authorities to grant all consequential service benefits to the applicant including inter-se seniority vis-a-vis to juniors of the applicant,

8.3 to hold that the action on part of respondent department in non-granting promotion to the applicant is bad in the eyes of law."

2. The brief facts of the case are that the applicant initially joined the services of the respondents on 23.6.84 on the post of Junior Engineer, Electrical and from this post the next promotion is to the post of Assistant



Engineer (Electrical) and the said post is filled through two sources i.e. a) 50% by promotion and b) 50% by departmental candidates through Departmental Competitive Examinations. For appearing in Limited Departmental Competitive examination, the minimum service of four years is required to be completed by the concerned employee. The applicant has completed more than four years of service on the post of Junior Engineer. He had appeared in the said examination for the vacancies in the years 2000-2001 and 2001-2002. He was declared successful and was recommended for the post of Assistant Engineer, Electrical. But the Department published the office order dated 31.3.2003, whereby all the persons selected in the examination were promoted to the post of Asstt. Engineer, Electrical except the applicant. The applicant immediately submitted a representation on 1.4.2003 and he filed OA No. 426/2003. By order dated 8.7.2003 the Tribunal directed the respondents to decide the pending representation of the applicant by passing a speaking order but the respondents vide order dated 15.9.2003 rejected the case of the applicant. Hence, this Original Application is filed.

3. Heard the learned counsel for the parties and carefully perused the pleadings and records.

4. It is argued on behalf of the applicant that the respondents have not complied with the directions given by the Tribunal vide order dated 8th July, 2003 passed in the earlier OA No. 426/2003, as his name was not published in the office order dated 31.3.2003 while he was declared successful in the said examination. Hence, the reliefs claimed by the him is liable to be granted.

5. In reply the learned counsel for the respondents



argued that a disciplinary proceeding is pending against the applicant. He has been issued with a charge sheet (Annexure R-1). Since the applicant is not clear from the vigilance angle, his promotion could not be affected at this stage. His representation has been considered by the competent authority and the same has been decided vide order dated 15.9.2003. Hence, the applicant is not entitled for the reliefs claimed by him at this stage and this OA deserves to be dismissed.

6. After hearing the learned counsel for the parties and on careful perusal of the records and pleadings, we find that vide Annexure R-1 a charge sheet was issued to the applicant and disciplinary proceedings are pending against the applicant. Thus, unless the applicant is clear from vigilance angle, his promotion could not be affected. His representation has also been considered by the respondents and vide order dated 15.9.2003 the same has been decided. Thus, at this stage, we also cannot interfere in the matter as the disciplinary proceeding is pending against the applicant. However, ends of justice would be met if the respondents are directed to conclude the departmental enquiry proceedings pending against the applicant, vide charge sheet at Annexure R-1, within a period of four months from the date of receipt of a copy of this order. We do so accordingly. It is also directed that the applicant shall fully co-operate in the departmental enquiry proceedings, with the respondents, so that un-necessary delay even if is not caused. However, it is made clear that on full co-operation of the applicant, the disciplinary enquiry proceedings is not completed within the aforesaid stipulated period, the same shall stand abated. Accordingly, the OA stands disposed of. No costs.

(Madan Mohan)  
Judicial Member

"SAH

*Surinder*  
(M.P. Singh)  
Vice Chairman